

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RALPH RODRIGUEZ,

Plaintiff,

-against-

EDWARD R. BURNETT, et al.,

Defendants.

ORDER OF SERVICE

22-CV-10056 (PMH)

PHILIP M. HALPERN, United States District Judge:

Plaintiff, currently incarcerated at Fishkill Correctional Facility (“Fishkill”) and proceeding *pro se*, brings this action under 42 U.S.C. § 1983, alleging that Defendants violated his constitutional rights during his incarceration at Fishkill. On February 1, 2023, the Court directed the Clerk of Court to complete the USM-285 forms with the addresses for, and deliver all documents necessary to effect service to the U.S. Marshals Service on, Defendants Superintendent Edward R. Burnett; Deputy of Security Stephen Urbanski; Deputy Superintendent Akinola Akinyombo; Sergeant Block; Supervisor Sally A. Reams; Mohammad A. Bhuiyan; Davachi M. Sullivan; Oujas Gifty; and Sangeethe L. Mukkatt. (Doc. 6). The Court also dismissed all claims brought against New York State, County of Dutchess, Commissioner Annucci, and Governor Hochul. (*Id.*).

The Court deems the Complaint amended to replace the Defendants John Doe #1-10 with: Assistant Commissioner Robert Mitchell; Correction Officer (“C.O.”) Richard Flanagan; C.O. Johnathon Franco; C.O. Angel Matos; C.O. Vincente Santiago; C.O. Jean Marc Oge; C.O. Jason Crofoot; C.O. Carlton Garrett; Office of Special Investigation (“OSI”) Member: Christopher Ciacco; and OSI Member: Shawn Hanley. The Court also deems the Complaint amended to replace

Defendants Jane Doe #1-3 with: OSI Member: Alexis Cherry; OSI Member: Jan Okusko; and OSI Member: Aleshia Rose.

As set forth below, the Court directs the Clerk of Court to issues summonses as to Defendants Mitchell, Flanagan, Franco, Matos, Santiago, Oge, Crofoot, Garrett, Ciacco, Hanley, Cherry, Okusko, and Rose.

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

To allow Plaintiff to effect service on Defendants Mitchell, Flanagan, Franco, Matos, Santiago, Oge, Crofoot, Garrett, Ciacco, Hanley, Cherry, Okusko, and Rose; through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for these Defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served summonses and the complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date summonses are issued. If the complaint is not served within 90 days after the date the summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur*

v. Strong, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

As set forth in the prior order of service, Local Civil Rule 33.2, which requires defendants in certain types of prisoner cases to respond to specific, court-ordered discovery requests, applies to this action. Those discovery requests are available on the Court's website under "Forms" and are titled ["Plaintiff's Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents."](#) Within 120 days of service of the complaint on the newly identified Defendants, those Defendants must serve responses to these standard discovery requests. In their responses, Defendants must quote each request verbatim.¹

CONCLUSION

The Clerk of Court is directed to: (i) mail an information package to Plaintiff; (ii) substitute Defendants Mitchell, Flanagan, Franco, Matos, Santiago, Oge, Crofoot, Garrett, Ciacco, Hanley, Cherry, Okusko as Defendants on the docket for the John/Jane Doe entities currently listed; and (iii) issue summonses for Defendants Mitchell, Flanagan, Franco, Matos, Santiago, Oge, Crofoot, Garrett, Ciacco, Hanley, Cherry, Okusko, and Rose, complete the USM-285 forms with the addresses for these newly identified Defendants, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge*

¹ If Plaintiff would like copies of these discovery requests before receiving the responses and does not have access to the website, Plaintiff may request them from the Pro Se Intake Unit.

v. United States, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: White Plains, New York
May 1, 2023

A handwritten signature in black ink, appearing to read 'Philip M. Halpern', written over a horizontal line.

PHILIP M. HALPERN
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. Assistant Commissioner Robert Mitchell
DOCCS Central Office, The Harriman State Campus
1220 Washington Avenue
Albany, NY 12226-2050
2. C.O. Richard Flanagan, Badge # 18-42
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
3. C.O. Johnathon Franco, Badge # 13-38
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562-5442
4. C.O. Angel Matos , Badge # 13-24
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562-5442
5. C.O. Vincente Santiago, Badge # 13-59
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562-5442
6. C.O. Jean Marc Oge, Badge # 13-30
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562-5442
7. C.O. Jason Crofoot, Badge # 18-14
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
8. C.O. Carlton Garrett, Badge #13-74
Sing Sing Correctional Facility
354 Hunter Street
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9. OSI Member: Christopher Ciacco
DOCCS OSI, The Harriman State Campus
1220 Washington Avenue
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10. OSI Member: Shawn Hanley
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Albany, NY 12226-2050
11. OSI Member: Alexis Cherry
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12. OSI Member: Jan Okusko
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1220 Washington Avenue
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13. OSI Member: Aleshia Rose
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